

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LOUIS GONZALEZ, A#209-413-252
also known as Carlos Ramos Sanchez PLAINTIFF
VERSUS CIVIL ACTION NO.: 5:20-CV-158-DCB-MTP
WARDEN SHAWN R. GILLIS, ET AL. DEFENDANTS

Order Adopting Report and Recommendation

This matter is before the Court on Magistrate Judge Michael T. Parker's Report and Recommendation ("R&R") [ECF No. 25], Plaintiff's Motion to Seek Leave to File an Untimely Response in Opposition to Magistrate Judge Parker's R&R [ECF No. 29], and Plaintiff's Motion for Conditional Class Certification [ECF No. 31]. Having carefully reviewed the same, the Court finds that Magistrate Judge Parker's Report and Recommendation is well taken and shall be adopted as the findings and conclusions of this Court. Magistrate Judge Parker finds that all class allegations should be dismissed, and Plaintiff should be directed to amend his complaint to include only claims that he asserts against Defendants on his own behalf. Judge Parker further finds that Plaintiff's Motion for a Preliminary Injunction [ECF No. 5] should be denied.

On December 15, 2020, Plaintiff filed a Motion to Seek Leave to File an Untimely Response in Opposition to Magistrate Judge Parker's R&R [ECF No. 29]. The Motion to Seek Leave merely

reasserts Plaintiff's request in his initial complaint [ECF No. 1] and Plaintiff's Motion to Appoint Counsel [ECF No. 4]. "No factual objection is raised when a petitioner merely reurges arguments contained in the original petition." Hinton v. Pike County, No. 18-60817, 2018 WL 3142942, at *1 (S.D. Miss. June 27, 2018). Judge Parker denied Plaintiff's Motion to Appoint Counsel [ECF No. 4] because "Plaintiff has not shown the presence of 'exceptional circumstances.'" [ECF No. 8]. The Court will not allow the Plaintiff additional time to restate claims that have previously been decided by Judge Parker.

Additionally, Plaintiff has filed a Motion for Conditional Class Certification. [ECF No. 31]. Because the Court agrees with Judge Parker's finding that Plaintiff has failed to meet the requirements set out in Federal Rule of Civil Procedure 23 and that the class action claims should be dismissed, this Motion [ECF No. 31] is now moot and therefore DENIED.

Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge Michael T. Parker's Report and Recommendation is ADOPTED as the findings and conclusions of this Court.

IT IS FURTHER ORDERED that the Motion for a Preliminary Injunction [ECF No. 5] is DENIED.

IT IS FURTHER ORDERED that all class allegations are DISMISSED. Plaintiff shall file an amended complaint within 21 days from the entry of this order.

IT IS FURTHER ORDERED that the Motion to Seek Leave to File an Untimely Response in Opposition to Magistrate Judge Parker's R&R [ECF No. 29] is DENIED.

IT is FURTHER ORDERED that Plaintiff's Motion for Conditional Class Certification [ECF No. 31] is DENIED.

SO ORDERED AND ADJUDGED this the 22nd day of December, 2020.

/s/ David Bramlette
UNITED STATES DISTRICT COURT